

235.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-32182-2019

Date of decision: 22.10.2019

IMRAN

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Sunita Gupta, Advocate, for
Mr. Nafees Ahmad Khan, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.79 dated 25.03.2019 registered under Sections 354, 452, 506 of IPC, Section 8 of POCSO Act and Section 67 of Information of Technology Act, 2000 at Police Station Women, Nuh, District Nuh, Mewat.

The aforesaid FIR was registered at the behest of Salimuddin (father of the victim). The allegation against the petitioner is that on 25.03.2019 at about 8.00 AM, when his (complainant's) minor daughter had gone to the fields to take grass for buffalo, in the meantime, the petitioner came alongwith weapon on motorcycle with bad intention and started torturing her. With one hand, he hold the hand of the victim and with the other hand, he hold her chest. The petitioner fell her down and started committing rape with her at the gun point. However, when the victim

opposed, the petitioner gave threats to her with dire consequences. On raising noise by the victim, the complainant, his family members (Sakir and his wife Arsida) and others, came out from the house and found that the petitioner was forcibly committing rape with the victim. When the complainant and other family members tried to apprehend, the petitioner fled away from the spot, while giving threats, on his motorcycle.

Counsel for the petitioner has argued that the petitioner is in custody since 26.03.2019. Though the allegation is that the petitioner has threatened and molested the victim at the gun point, but no offence under the Arms Act has been registered. She states that the family members i.e. Sakir and his wife Arsida, who are stated to be the eyewitnesses, have not supported the present incident.

Learned State counsel, on instructions from Inspector Seema, does not dispute the custody and the fact that Sakir and his wife Arsida though have not supported the present incident, but in their statements, they have stated that earlier also the petitioner had made similar attempt and entered the house of the prosecutrix on 24.09.2018.

I have heard counsel for the parties.

The petitioner is in custody since 26.03.2019 and the allegation against him is that he tried to molest the girl at the gun point but no offence under the Arms Act has been registered against him. Similarly, Sakir and Arsida have not supported the case of the prosecution so far as the present incident is concerned, though in their statements, they have stated that earlier also the petitioner had made a similar attempt. This Court has put a specific question as regards the medical test conducted on the person of the victim,

but this Court has been informed that the victim has refused for such medical examination. Thus, it is only during the course of trial, the allegations so levelled in the case, could be established by leading evidence. The petitioner is in custody since 26.03.2019 and no prosecution witness has been examined in the case and in this manner, the trial in the case will take sufficient long time. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

22.10.2019

sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.